

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 584

BY BUSINESS COMMITTEE

AN ACT

RELATING TO CREATION OF A MICRO ENTERPRISE DEVELOPMENT AUTHORITY; AMENDING TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 61, TITLE 67, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE FOR CREATION OF THE IDAHO MICRO ENTERPRISE DEVELOPMENT AUTHORITY, TO PROVIDE A DECLARATION OF POLICY, TO PROVIDE FOR APPOINTMENT AND REMOVAL OF COMMISSIONERS, TO PROVIDE FOR APPOINTMENT OF AN EXECUTIVE DIRECTOR, TO PROVIDE FOR CONFLICTS OF INTEREST, TO PROVIDE FOR NO FORFEITURE OF OFFICE, TO PROVIDE GENERAL POWERS OF THE AUTHORITY, TO PROVIDE A PROCEDURE PRIOR TO FINANCING BUSINESS PROJECTS, TO PROVIDE FOR COOPERATION WITH MUNICIPALITIES, STATE BODIES OR COMMUNITY COLLEGE DISTRICTS, TO PROVIDE FOR EXEMPTION FROM TAXATION, TO PROVIDE FOR AN ANNUAL REPORT, TO PROVIDE BONDING PROVISIONS, TO PROVIDE FOR REFUNDING OBLIGATIONS AND ISSUANCE, TO PROVIDE FOR USE OF PROCEEDS UPON REFUNDING OBLIGATIONS, TO PROVIDE FOR DEPOSIT OF AUTHORITY MONEYS, TO PROVIDE FOR CONTRACT OF THE STATE, TO PROVIDE FOR LIMITATION OF LIABILITY ON AUTHORITY OBLIGATIONS, TO PROVIDE FOR REMEDIES OF BONDHOLDERS AND NOTEHOLDERS, TO PROVIDE FOR STATE GRANTS AND LEASES TO AUTHORITY, TO PROVIDE THAT AUTHORITY OBLIGATIONS ARE LEGAL INVESTMENTS, TO PROVIDE THE ACT IS NOT A LIMITATION OF POWERS, TO PROVIDE FOR INCONSISTENCY WITH OTHER LAWS, TO PROVIDE FOR REPAYMENT OF LOANS AND TO PROVIDE FOR JOBS CREATION; AMENDING SECTION 63-3638, IDAHO CODE, TO PROVIDE FOR MONEYS TO BE REMITTED FROM THE SALES TAX ACCOUNT UPON CERTAIN CIRCUMSTANCES OCCURRING; AND PROVIDING SEVERABILITY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 61, Title 67, Idaho Code, and to read as follows:

CHAPTER 61

MICRO ENTERPRISE DEVELOPMENT AUTHORITY

67-6101. SHORT TITLE. This chapter may be referred to as and cited as "Idaho Micro Enterprise Development Authority Act."

67-6102. DEFINITIONS. As used in this chapter the following words and terms have the following meanings, unless a different meaning clearly appears from the context:

(a) "Authority" means the Idaho micro enterprise development authority created and established pursuant to section 67-6103, Idaho Code.

(b) "Bonds," "notes" or "bond anticipation notes" and "other obligations" means any bonds, notes, debentures, interim certificates

1 or other evidences of financial indebtedness, respectively, issued by the  
2 state micro enterprise development authority pursuant to this chapter.

3 (c) "Business" means any entity organized to manufacture or sell a good  
4 or service and which shall have less than fifty (50) full-time employees.

5 (d) "Federal government" means the United States of America, or any  
6 agency or instrumentality, corporate or otherwise of the United States of  
7 America.

8 (e) "Municipality" means any city, municipal corporation or other  
9 political subdivision of this state.

10 (f) "Qualified business" means a business meeting the requirements of  
11 section 67-6110, Idaho Code.

12 (g) "State" means the state of Idaho.

13 (h) "State body" means any department, board, commission or agency of  
14 the state of Idaho.

15 67-6103. CREATION OF AUTHORITY. There is hereby created and  
16 established an independent public body corporate and politic to be known as  
17 the Idaho micro enterprise development authority to carry out the provisions  
18 of this act. The authority is hereby constituted a public instrumentality  
19 exercising public and essential governmental functions, and the exercise by  
20 the authority of the powers conferred by this act shall be deemed and held to  
21 be the performance of an essential governmental function of the state. The  
22 authority shall not have the power to levy and collect taxes.

23 67-6104. DECLARATION OF POLICY. It is hereby declared:

24 (a) The functions of government have multiplied many times since the  
25 admission of the state of Idaho into the union in 1890;

26 (b) In view of the many increased functions of government, it is  
27 necessary that proper provision of start-up loans for small businesses;

28 (c) It is to the economic benefit of the citizens of the state of Idaho  
29 to provide sufficient start-up loans for small businesses.

30 It is hereby further declared to be necessary and in the public  
31 interest that such state economic micro development authority provide for  
32 predevelopment costs, temporary financing, acquisition and operation of  
33 facilities for small businesses. The purpose of this act is to provide loans  
34 to Idaho businesses that otherwise would not be able to qualify for them in  
35 the traditional private market.

36 It is hereby further declared that the foregoing are public purposes and  
37 uses for which public moneys may be borrowed, expended, advanced, loaned,  
38 or granted, and that such activities serve a public purpose in improving  
39 or otherwise benefiting the people of this state; that the necessity of  
40 enacting the provisions hereinafter set forth is in the public interest and  
41 is hereby so declared as a matter of express legislative determination.

42 67-6105. APPOINTMENT AND REMOVAL OF COMMISSIONERS. (a) The powers of  
43 the authority shall be vested in a board of seven (7) commissioners appointed  
44 by the governor for terms of five (5) years with advice and consent of a  
45 majority of the members of the senate. No commissioner appointed after  
46 January 1, 2012, shall also serve as a member of the Idaho housing and finance  
47 authority created in chapter 62, title 67, Idaho Code. Of the commissioners

1 first appointed, two (2) commissioners shall serve for terms ending one (1)  
 2 year from January first next succeeding the date of their appointment, two  
 3 (2) commissioners shall serve for terms ending two (2) years from January  
 4 first next succeeding their appointment and one (1) of the remaining three  
 5 (3) commissioners shall serve for a term of three (3), four (4) and five (5)  
 6 years, respectively. Any vacancies in the membership of the authority shall  
 7 be filled in like manner but only for the remainder of an unexpired term.  
 8 Each commissioner shall hold office for the term of his appointment and until  
 9 his successor shall have been appointed and qualified. Any commissioner  
 10 shall be eligible for reappointment.

11 (b) The commissioners shall elect from among their number a chairperson  
 12 and a vice-chair annually and such other officers as it may determine.  
 13 Meetings shall be held at the call of the chairperson or whenever two (2)  
 14 commissioners so request. Four (4) commissioners of the authority shall  
 15 constitute a quorum and the affirmative vote of four (4) commissioners  
 16 shall be necessary for any action taken by the authority. No vacancy in the  
 17 membership of the authority shall impair the right of a quorum to exercise  
 18 all the rights and perform all the duties of the authority.

19 (c) Commissioners shall be compensated as provided by section  
 20 59-509(o), Idaho Code.

21 (d) For incompetency or neglect of duty or malfeasance in office, a  
 22 commissioner of the authority may be removed from office by the governor in  
 23 the manner provided by law.

24 67-6106. EXECUTIVE DIRECTOR. (a) The commissioners shall employ an  
 25 executive director who shall also be the secretary and who shall administer,  
 26 manage and direct the affairs and business of the authority, subject to the  
 27 policies, control and direction of the commissioners. The commissioners  
 28 may employ technical experts and such other officers, agents and employees,  
 29 permanent and temporary, as it may require, and shall determine their  
 30 qualifications, duties and compensation. The commissioners may delegate to  
 31 one (1) or more of its agents or employees such administrative duties as it  
 32 may deem proper.

33 (b) The secretary shall keep a record of the proceedings of the  
 34 authority and shall be custodian of all books, documents and papers filed  
 35 with the authority and of its minute book and seal. He shall have authority  
 36 to cause to be made copies of all minutes and other records and documents of  
 37 the authority and to give certificates under the seal of the authority to  
 38 the effect that such copies are true copies and all persons dealing with the  
 39 authority may rely upon such certificates.

40 67-6107. CONFLICTS OF INTEREST. No commissioner or employee of the  
 41 authority shall acquire any interest direct or indirect in any business or  
 42 facility financed under this act or in any property or equity included or  
 43 planned to be included in any such business or facility, nor shall he have  
 44 any interest direct or indirect in any contract or proposed contract for  
 45 materials or services to be furnished or used in connection with any such  
 46 business or facility. If any commissioner or employee of the authority  
 47 owns or controls an interest direct or indirect in any business or property  
 48 included or planned to be included in any such business or facility, he

1 immediately shall disclose the same in writing to the authority and such  
2 disclosure shall be entered upon the minutes of the authority. Failure to  
3 disclose such interest shall constitute misconduct in office. Upon such  
4 disclosure such commissioner or employee shall not participate in any action  
5 by the authority affecting such business or property.

6 67-6108. NO FORFEITURE OF OFFICE. Notwithstanding the provisions  
7 of any other law, no officer or employee of this state shall be deemed to  
8 have forfeited or shall forfeit his office or employment by reason of his  
9 acceptance of membership on the authority or his service thereon.

10 67-6109. GENERAL POWERS OF THE AUTHORITY. The authority is hereby  
11 granted, has and may exercise all powers necessary or appropriate to carry  
12 out and effectuate its corporate purposes including, without limitation,  
13 the following:

- 14 (a) Sue and be sued in its own name;
- 15 (b) Have an official seal and to alter the same at pleasure;
- 16 (c) Have perpetual succession;
- 17 (d) Maintain an office at such place or places within this state as it  
18 may designate;
- 19 (e) Adopt and from time to time amend and repeal bylaws and rules and  
20 regulations, not inconsistent with this act, to carry into effect the powers  
21 and purposes of the authority and the conduct of its business;
- 22 (f) Make and execute contracts and all other instruments necessary or  
23 convenient for the exercise of its powers and functions;
- 24 (g) Acquire real or personal property, or any interest therein, on  
25 either a temporary or long-term basis in the name of the authority by gift,  
26 purchase, transfer, foreclosure, lease or otherwise including rights or  
27 easements; hold, sell, assign, lease, encumber, mortgage or otherwise  
28 dispose of any real or personal property, or any interest therein, or  
29 mortgage interest owned by it or under its control, custody or in its  
30 possession and release or relinquish any right, title, claim, lien,  
31 interest, easement or demand however acquired, including any equity or right  
32 of redemption in property foreclosed by it and to do any of the foregoing by  
33 public sale, with such public bidding as shall be required by the provisions  
34 of any other law;
- 35 (h) To lease or rent any lands, buildings, structures, facilities or  
36 equipment from private parties to effectuate the purposes of this act;
- 37 (i) To enter into agreements or other transactions with and accept  
38 grants and the cooperation of the United States or any agency thereof or  
39 of the state of Idaho or any agency or governmental subdivision thereof  
40 in furtherance of the purposes of this act including, but not limited to,  
41 the development, maintenance, operation and financing of any business or  
42 facility and to do any and all things necessary in order to avail itself of  
43 such aid and cooperation;
- 44 (j) To receive and accept aid or contributions from any source of money,  
45 property, labor or other things of value, to be held, used and applied to  
46 carry out the purposes of this act subject to such conditions upon which such  
47 grants and contributions may be made including, but not limited to, gifts or

1 grants from any department or agency of the United States or this state for  
2 any purpose consistent with this act;

3 (k) To employ architects, engineers, attorneys, accountants, building  
4 construction and financial experts and such other advisors, consultants and  
5 agents as may be necessary in its judgment and to fix their compensation;

6 (l) To procure insurance against any loss in connection with its  
7 property and other assets in such amounts and from such insurers as it deems  
8 desirable;

9 (m) To invest any funds not needed for immediate use or disbursement,  
10 including any funds held in reserve, in:

11 (1) Bonds, notes and other obligations of the United States or any  
12 agency or instrumentality thereof and other securities secured by such  
13 bonds, notes or other obligation;

14 (2) Money market funds which are insured or the assets of which  
15 are limited to obligations of the United States or any agency or  
16 instrumentality thereof;

17 (3) Deposit accounts with public depositories;

18 (4) Commercial paper which, at the time of its purchase, is rated in the  
19 highest category by a nationally recognized rating service; and

20 (5) Property or securities in which the state treasurer may invest  
21 funds in the state treasury pursuant to section 67-1210, Idaho Code.

22 (n) To borrow money and issue bonds and notes or other evidences of  
23 indebtedness thereof as hereinafter provided;

24 (o) To the extent permitted under its contract with the holders of  
25 bonds, notes and other obligations of the authority to consent to any  
26 modification of any contract, lease or agreement of any kind to which the  
27 authority is a party;

28 (p) To manage or operate real and personal property, in the state, take  
29 assignments of leases and rentals, proceed with foreclosure actions, or take  
30 any other action necessary or incidental to the performance of its corporate  
31 duties;

32 (q) To make and enter into all contracts and agreements necessary or  
33 incidental to the performance of its duties and the execution of its powers  
34 under this act;

35 (r) To plan, carry out, acquire, lease and operate facilities and to  
36 provide for the construction, reconstruction, improvement, alteration or  
37 repair of any facility or part thereof;

38 (s) To provide loans not in excess of thirty-five thousand dollars  
39 (\$35,000) to small business start-ups or business expansion which may be  
40 one (1) business or related businesses and such businesses shall have less  
41 than fifty (50) employees provided that the maximum amount of loans and  
42 administrative costs in administering the authority shall not exceed two  
43 percent (2%) of value of the state sales tax account annual collections which  
44 amount shall be certified by the state tax commission using the average of  
45 the last three (3) years collections;

46 (t) To do any act necessary or convenient to the exercise of the powers  
47 herein granted or reasonably implied therefrom;

48 (u) To audit all loans and recipients of loans to ensure that loan  
49 proceeds are expended for the intended purpose as required in section

67-6110, Idaho Code, and that the loan and the expenditure of funds is in compliance with all state and federal laws.

67-6110. PROCEDURE PRIOR TO FINANCING BUSINESS PROJECTS. Notwithstanding any other provision of this act, the authority shall not finance any business or businesses pursuant to section 67-6109, Idaho Code, unless:

(a) The business or businesses have entered into an agreement with the authority for the authority to provide financing for a business or a facility for the business; and

(b) The authority finds that the business to be assisted pursuant to the provisions of this act, will benefit the public health, safety and welfare of the state by encouraging small business development and expansion and resultant employment increases; and

(c) A business or businesses have provided a business plan that the authority believes will yield a positive return on investment to authority moneys while carrying out the provisions of this act; and

(d) A business or businesses shall provide the authority with a specific list of intended uses of loan funds which uses must comply with all state and federal laws; and

(e) The business or businesses have certified in writing, subject to penalty of perjury, that they have been unable to secure financing from any state or nationally chartered lender, upon the same terms and conditions as sought from the authority; and

(f) The business or businesses have provided the authority a minimum of three (3) completed loan applications submitted to three (3) separate state or nationally chartered lenders, together with the state or nationally chartered lenders' denial(s) of the application(s).

67-6111. COOPERATION WITH MUNICIPALITIES, STATE BODIES OR COMMUNITY COLLEGE DISTRICTS. (a) The authority may obtain the aid and cooperation of the municipalities in which such businesses or facilities are to be located and shall have the power to enter into:

(1) Such agreements and arrangements as it deems necessary or advisable to obtain such aid and cooperation; and

(2) Agreements with municipalities or counties for the furnishing, installing, opening or closing of streets, roads, alleys, sidewalks or other places, or for the furnishing of property, sewage, water, and other services in connection with businesses or facilities financed under this act or for the changing of the map of a political subdivision of the planning, replanning, zoning, or rezoning of any part of a political subdivision.

(b) The authority and any state body or community college district may join or cooperate with each other, either jointly or otherwise, in the exercise of any of their powers for the purpose of planning, undertaking, owning, constructing or contracting with respect to a business or a facility. The authority shall consult with and may enter into agreements will small business development centers in state colleges and universities.

67-6112. EXEMPTION FROM TAXATION. (a) As set forth in the declaration of finding and purpose herein, the authority will be performing an essential

1 governmental function in the exercise of the powers conferred upon it by  
2 this act, and the notes and bonds of the authority issued pursuant to this  
3 act, and the income therefrom including any profit made on the sale thereof  
4 and all its fees, charges, gifts, grants, revenues, receipts, and other  
5 moneys received, pledged to pay or secure the payment of such notes or bonds  
6 shall at all times be free from taxation of every kind by the state and by the  
7 municipalities and all other political subdivisions of the state.

8 (b) The property of the authority and its income and operation shall be  
9 exempt from taxation or assessments upon any property acquired or used by the  
10 authority under the provisions of this act.

11 67-6113. ANNUAL REPORT. The authority shall submit to the governor  
12 within ninety (90) days after the end of its fiscal year a complete and  
13 detailed report setting forth:

14 (a) Its operations and accomplishments;

15 (b) Its receipts and expenditures during such fiscal year in accordance  
16 with the categories or classifications established by the authority for its  
17 operating and capital outlay purposes;

18 (c) Its assets and liabilities at the end of its fiscal year, including  
19 the status of reserve, special or other funds;

20 (d) A schedule of its notes and bonds outstanding at the end of its  
21 fiscal year, together with a statement of the amounts redeemed and incurred  
22 during such fiscal year; and

23 (e) Loan amounts by industry segment and business size.

24 67-6114. BONDING PROVISIONS.

25 (a) (1) The authority shall have power and is hereby authorized to issue  
26 from time to time its notes and bonds in such principal amount as the  
27 authority shall determine to be necessary to provide sufficient funds  
28 for achieving any of its corporate purposes, including the payment  
29 of interest on notes and bonds of the authority, establishment of  
30 reserves to secure such notes and bonds, and all other expenditures of  
31 the authority incident to and necessary or convenient to carry out its  
32 corporate purposes and powers.

33 (2) The authority shall have the power, from time to time, to issue;  
34 (i) notes to renew notes; and (ii) bonds, to pay notes, including the  
35 interest thereon, and whenever it deems refunding expedient, to refund  
36 any bonds by the issuance of new bonds, whether the bonds to be refunded  
37 have or have not matured, and to issue bonds partly to refund bonds then  
38 outstanding and partly for any of its corporate purposes. The refunding  
39 bonds may be; (i) exchanged for bonds to be refunded; or (ii) sold and  
40 the proceeds applied to the purchase, redemption or payment of such  
41 bonds.

42 (3) Except as may otherwise be expressly provided by the authority,  
43 every issue of its notes and bonds shall be general obligations of  
44 the authority payable out of any revenues or moneys of the authority,  
45 subject only to any agreements with the holders of particular notes or  
46 bonds pledging any particular revenues.

47 (b) The notes and bonds shall be authorized by resolution or  
48 resolutions of the authority, shall bear such date or dates and shall

1 mature at such time or times as such resolution or resolutions may provide,  
2 except that no bond shall mature more than fifty (50) years from the date  
3 of its issue. The bonds may be issued as serial bonds payable in annual  
4 installments or as term bonds or as a combination thereof. The notes and  
5 bonds shall bear interest at such rate or rates, be in such denominations,  
6 be in such form, either coupon or registered, carry such registration  
7 privileges, be executed in such manner, be payable in such medium of payment,  
8 at such place or places, and be subject to such terms of redemption as such  
9 resolution or resolutions may provide. The notes and bonds of the authority  
10 may be sold by the authority, at public or private sale, at such price or  
11 prices as the authority shall determine.

12 (c) Any resolution or resolutions authorizing any notes or bonds or any  
13 issue thereof may contain provisions, which shall be a part of the contract  
14 or contracts with the holders thereof, as to:

15 (1) Pledging all or any part of the revenues to secure the payment of the  
16 notes or bonds or of any issue thereof, subject to such agreements with  
17 noteholders or bondholders as may then exist;

18 (2) Pledging all or any part of the assets of the authority to secure the  
19 payment of the notes or bonds or of any issue of notes or bonds, subject  
20 to such agreements with noteholders or bondholders as may then exist;

21 (3) The setting aside of reserves or sinking funds and the regulation  
22 and disposition thereof;

23 (4) Limitations on the purpose to which the proceeds of sale of notes or  
24 bonds may be applied and pledging such proceeds to secure the payment of  
25 the notes or bonds or of any issue thereof;

26 (5) Limitations on the issuance of additional notes or bonds; the terms  
27 upon which additional notes or bonds may be issued and secured; and the  
28 refunding of outstanding or other notes or bonds;

29 (6) The procedure, if any, by which the terms of any contract with  
30 noteholders or bondholders may be amended or abrogated; the amount of  
31 notes or bonds the holders of which must consent thereto; and the manner  
32 in which such consent may be given;

33 (7) Limitations on the amount of moneys to be expended by the authority  
34 for operating expenses of the authority;

35 (8) Vesting in a trustee or trustees such property, rights, powers and  
36 duties in trust as the authority may determine which may include any  
37 or all of the rights, powers and duties of the trustee appointed by the  
38 bondholders pursuant to this act and limiting or abrogating the right  
39 of the bondholders to appoint a trustee under this act or limiting the  
40 rights, powers and duties of such trustee;

41 (9) Defining the acts or omissions to act which shall constitute a  
42 default in the obligations and duties of the state building authority  
43 to the holders of the notes or bonds and providing for the rights  
44 and remedies of the holders of the notes or bonds in the event of  
45 such default, including as a matter of right, the appointment of a  
46 receiver; provided however, that such rights and remedies shall not be  
47 inconsistent with the general laws of the state and the other provisions  
48 of this act;

49 (10) Any other matters, of like or different character, which in any way  
50 affect the security or protection of the holders of the notes or bonds.

1 (d) Any pledge made by the authority shall be valid and binding from the  
2 time when the pledge is made; the revenues, moneys or property so pledged  
3 and thereafter received by the authority shall immediately be subject to  
4 the lien of such pledge without any physical delivery thereof or further  
5 act, and the lien of any such pledge shall be valid and binding as against  
6 all parties having claims of any kind in tort, contract or otherwise against  
7 the authority, irrespective of whether such parties have notice thereof.  
8 Neither the resolution nor any other instrument by which a pledge is created  
9 need be recorded.

10 (e) Neither the commissioners of the authority nor any other person  
11 executing such notes or bonds shall be subject to any personal liability or  
12 accountability by reason of the issuance thereof.

13 (f) The authority, subject to such agreements with noteholders or  
14 bondholders as may then exist, shall have power out of any funds available  
15 therefor to purchase notes or bonds of the authority, which shall thereupon  
16 be canceled, at a price not exceeding;

17 (1) If the notes or bonds are then redeemable, the redemption price then  
18 applicable plus accrued interest to the next interest payment thereon,  
19 or

20 (2) If the notes or bonds are not then redeemable, the redemption price  
21 applicable on the first date after such purchase upon which the notes or  
22 bonds become subject to redemption plus accrued interest to such date.

23 (g) In the discretion of the authority, the bonds may be secured by a  
24 trust indenture by and between the authority and a corporate trustee which  
25 may be any trust company or bank having the power of a trust company in the  
26 state. Such trust indenture may contain such provisions for protecting and  
27 enforcing the rights and remedies of the bondholders as may be reasonable and  
28 proper and not in violation of law, including covenants setting forth the  
29 duties of the authority in relation to the exercise of its corporate powers  
30 and the custody, safeguarding and application of all moneys. The authority  
31 may provide by such trust indenture for the payment of the proceeds of the  
32 bonds and the revenues to the trustee under such trust indenture or other  
33 depository, and for the method of disbursement thereof, with such safeguards  
34 and restrictions as it may determine. All expenses incurred in carrying  
35 out such trust indenture may be treated as a part of the operating expenses  
36 of the authority. If the bonds shall be secured by a trust indenture,  
37 the bondholders shall have no authority to appoint a separate trustee to  
38 represent them.

39 (h) Whether or not the notes and bonds are of such form and character  
40 as to be negotiable instruments under the terms of the uniform commercial  
41 code, the notes and bonds are hereby made negotiable instruments within the  
42 meaning of and for all the purposes of the uniform commercial code, subject  
43 only to the provisions of the notes and bonds for registration.

44 (i) In case any of the commissioners or officers of the authority whose  
45 signatures appear on any notes or bonds or coupons shall cease to be such  
46 commissioners or officers before the delivery of such notes or bonds, such  
47 signatures shall, nevertheless, be valid and sufficient for all purposes,  
48 the same as if such commissioners or officers had remained in office until  
49 such delivery.

1        67-6115. REFUNDING OBLIGATIONS -- ISSUANCE. The authority may provide  
2 for the issuance of refunding obligations for the purpose of refunding any  
3 obligations then outstanding which have been issued under the provisions of  
4 this act, including the payment of any redemption premium thereon and any  
5 interest accrued or to accrue to the date of redemption of such obligations  
6 and for any corporate purpose of the authority. The issuance of such  
7 obligations, the maturities and other details thereof, the rights of the  
8 holders thereof, and the rights, duties and obligations of the authority  
9 in respect of the same shall be governed by the provisions of this act which  
10 relate to the issuance of obligations, insofar as such provisions may be  
11 appropriate therefor.

12        67-6116. REFUNDING OBLIGATIONS -- USE OF PROCEEDS. Refunding  
13 obligations issued as provided in section 67-6112, Idaho Code, may be  
14 sold or exchanged for outstanding obligations issued under this act and,  
15 if sold, the proceeds thereof may be applied, in addition to any other  
16 authorized purposes, to the purchase, redemption or payment of such  
17 outstanding obligations. Pending the application of the proceeds of  
18 any such refunding obligations, with any other available funds, to the  
19 payment of the principal, accrued interest and any redemption premium on  
20 the obligations being refunded, and, if so provided or permitted in the  
21 resolution authorizing the issuance of such refunding obligations or in the  
22 trust agreement securing the same, to the payment of any interest on such  
23 refunding obligations and any expenses in connection with such refunding,  
24 such proceeds may be invested in direct obligations of, or obligations the  
25 principal of and the interest on which are unconditionally guaranteed by  
26 the United States of America which shall mature or which shall be subject to  
27 redemption by the holders thereof, at the option of such holders, not later  
28 than the respective dates when the proceeds, together with the interest  
29 accruing thereon, will be required for the purposes intended.

30        67-6117. DEPOSIT OF AUTHORITY MONEYS. (a) All moneys of the authority  
31 except as otherwise authorized or provided in this act shall be deposited  
32 as soon as practicable in deposit accounts with public depositories. The  
33 moneys in such accounts shall be paid out on checks signed by the executive  
34 director or such other officers or employees of the authority as the  
35 authority shall authorize. All deposits of such moneys shall, if required  
36 by the authority, be secured by obligations of the United States, of the  
37 state or of any municipalities or political subdivisions or agencies of the  
38 state at a market value equal at all times to the amount of the deposit, and  
39 all banks and trust companies are authorized to give such security for such  
40 deposits.

41        (b) Notwithstanding the provisions of this section, the authority  
42 shall have power to contract with the holders of any of its notes or bonds as  
43 to the custody, collection, securing, investment and payment of any moneys  
44 of the authority and of any moneys held in trust or otherwise for the payment  
45 of notes or bonds, and to carry out such contract. Moneys held in trust or  
46 otherwise for the payment of notes or bonds or in any way to secure notes or  
47 bonds and deposits of such moneys may be secured in the same manner as moneys

1 of the authority, and all banks and trust companies are authorized to give  
2 such security for such deposits.

3 67-6118. CONTRACT OF THE STATE. The state does hereby pledge to and  
4 agree with the holders of any notes or bonds issued under this act that the  
5 state will not limit or alter the rights hereby vested in the authority to  
6 fulfill the terms of any agreements made with the said holders thereof or  
7 in any way impair the rights and remedies of such holders until such notes  
8 and bonds, together with the interest thereon, with interest on any unpaid  
9 installments of interest, and all costs and expenses in connection with  
10 any action or proceeding by or on behalf of such holders, are fully met  
11 and discharged. The authority is authorized to include this pledge and  
12 agreement of the state in any agreement with the holders of such notes or  
13 bonds.

14 67-6119. LIMITATION OF LIABILITY ON AUTHORITY OBLIGATIONS. The  
15 notes, bonds or other obligations of the authority shall not be or become  
16 an indebtedness or obligation of the state of Idaho, or of any department,  
17 board, commission, agency, political subdivision, body corporate and  
18 politic, or instrumentality of or county within the state nor shall such  
19 notes, bonds or obligations of the authority constitute the giving or  
20 loaning of the credit of the state of Idaho, or of any department, board,  
21 commission, agency, political subdivision, body corporate and politic or  
22 instrumentality of or municipality or county within the state, nor shall  
23 they be payable out of any funds other than those of the authority; and such  
24 notes and bonds shall contain on the face thereof a statement to such effect.

25 67-6120. REMEDIES OF BONDHOLDERS AND NOTEHOLDERS. (a) In the event  
26 that the authority shall default in the payment of principal of or interest  
27 on any issue of notes and bonds after the same shall become due, whether at  
28 maturity or upon call for redemption, and such default shall continue for  
29 a period of thirty (30) days, or in the event that the authority shall fail  
30 or refuse to comply with the provisions of this act, or shall default in any  
31 agreement made with the holders of any issue of notes or bonds, the holders  
32 of twenty-five percent (25%) in aggregate principal amount of the notes or  
33 bonds of such issue then outstanding, may appoint a trustee to represent the  
34 holders of such notes or bonds for the purposes herein provided.

35 (b) Such trustee may, and upon written request of the holders of  
36 twenty-five percent (25%) in principal amount of such notes or bonds then  
37 outstanding shall, in his or its own name:

38 (1) By suit, action or proceeding enforce all rights of the noteholders  
39 or bondholders, including the right to require the authority to carry  
40 out any agreements with such holders and to perform its duties under  
41 this act;

42 (2) Bring suit upon such notes or bonds;

43 (3) By action or suit, require the authority to account as if it were the  
44 trustee of an express trust for the holders of such notes or bonds;

45 (4) By action or suit, enjoin any acts or things which may be unlawful or  
46 in violation of the rights of the holders of such notes or bonds;

1 (5) Declare all such notes or bonds due and payable, and if all defaults  
2 shall be made good, then, with the consent of the holders of twenty-five  
3 percent (25%) of the principal amount of such notes or bonds then  
4 outstanding, annul such declaration and its consequences.

5 (c) Before declaring the principal of notes or bonds due and payable,  
6 the trustee shall first give thirty (30) days' notice in writing to the  
7 authority.

8 67-6121. STATE GRANTS AND LEASES TO AUTHORITY. The state may make  
9 grants of money or property and may lease property to the authority for  
10 the purpose of enabling it to carry out its corporate purposes and for the  
11 exercise of its powers including, but not limited to, deposits to the reserve  
12 funds of the authority. Notwithstanding any other provision of law to  
13 the contrary, the state may lease, with or without consideration, real or  
14 personal property to the authority for a term not to exceed fifty (50) years.  
15 This section shall not be construed to limit any other power the state may  
16 have to make such grants or to lease property to the authority, or to enter  
17 into other transactions with the authority.

18 67-6122. AUTHORITY OBLIGATIONS ARE LEGAL INVESTMENTS. The notes  
19 and bonds of the authority shall be legal investments in which all public  
20 officers and public bodies of this state, its political subdivisions, all  
21 municipalities and municipal subdivisions, all insurance companies and  
22 authorities and other persons carrying on an insurance business, all banks,  
23 bankers, banking associations, trust companies, savings banks and savings  
24 associations, including savings and loan associations, building and loan  
25 associations, investment companies and other persons carrying on a banking  
26 business, all administrators, guardians, executors, trustees and other  
27 fiduciaries, and all other persons whatsoever who are now or may hereafter  
28 be authorized to invest in bonds or in other obligations of the state, may  
29 properly and legally invest funds, including capital, in their control  
30 or belonging to them. The notes and bonds are also hereby made securities  
31 which may properly and legally be deposited with and received by all public  
32 officers and bodies of the state or any agency or political subdivisions of  
33 the state and all municipalities and public corporations for any purpose for  
34 which the deposit of bonds or other obligations of the state is now or may  
35 hereafter be authorized by law.

36 67-6123. ACT NOT A LIMITATION OF POWERS. Neither this act nor anything  
37 herein contained is or shall be construed as a restriction or limitation  
38 upon any powers which the authority might otherwise have under any laws of  
39 this state, and this act is cumulative to any such powers. This act does  
40 and shall be construed to provide a complete, additional and alternative  
41 method for the doing of the things authorized thereby and shall be regarded  
42 as supplemental and additional to powers conferred by other laws. However,  
43 the issuance of bonds, notes and other obligations and refunding bonds under  
44 the provisions of this act need not comply with the requirements of any other  
45 state law applicable to the issuance of bonds, notes and other obligations.  
46 Contracts for the construction and acquisition of any facilities undertaken  
47 pursuant to this act need not comply with the provisions of any other state

1 law applicable to contracts for the construction and acquisition of property  
2 by the state or a community college district. No proceedings, notice or  
3 approval shall be required for the issuance of any bonds, notes and other  
4 obligations or any instrument as security therefor, except as is provided in  
5 this act.

6 67-6124. INCONSISTENCY WITH OTHER LAWS. Insofar as the provisions of  
7 this act are inconsistent with the provisions of any other law, general,  
8 specific or local, the provisions of this act shall be controlling.

9 67-6125. REPAYMENT OF LOANS. Loans issued pursuant to this act  
10 to small business shall comply with the following provisions. Loans  
11 shall not be larger than thirty-five thousand dollars (\$35,000) to small  
12 business start-ups or business expansion. A person, partnership, firm,  
13 entity, corporation or limited liability company shall not have more than  
14 thirty-five thousand dollars (\$35,000) in debt owing to the authority not  
15 including interest. "Small business" means a business with less than fifty  
16 (50) full-time employees. Loans shall bear the interest rate set by the  
17 board of the authority with the legislative intent that the interest rate  
18 is intended to stay low to other markets while being sufficient for debt  
19 service and bond retirement. Loans issued by the authority shall not be  
20 dischargeable in any bankruptcy proceedings and liabilities of guarantors  
21 of such loans shall not be dischargeable in bankruptcy proceedings as well.  
22 The authority shall maintain sufficient reserves to cover bonds repayment  
23 in the event of nonpayment of its loans by the borrowers. The costs of  
24 maintaining such reserves may be passed on to loans made by the authority  
25 pursuant to this act.

26 67-6126. JOBS CREATED. (a) If a job is created from the proceeds of  
27 a loan issued pursuant to this act and the job pays at least Idaho's annual  
28 average wage as reported by the division of financial management for the  
29 year preceding the hire for the job and the employee is employed for at  
30 least one (1) entire calendar year, then two thousand five hundred dollars  
31 (\$2,500) shall be taken off the balance owing on the loan created up to ten  
32 (10) jobs maximum. The incentive shall be remitted from the state sales tax  
33 account directly to the authority. When a job is replaced, it shall pay at  
34 least Idaho's annual average wage as reported by the division of financial  
35 management for the year preceding the hire for the job for an entire calendar  
36 year.

37 (b) Businesses must prove tax documentation to verify salary  
38 information and other documentation for retention of employees. Once  
39 a business uses the job creation incentive, it must increase the number of  
40 employees to earn another. The credit shall be used for additional jobs  
41 created. The authority shall monitor the additional jobs created.

42 (c) The authority shall annually certify to the state tax commission an  
43 amount that is necessary to be paid to any capital reserve fund established  
44 by the authority for the retirement or repayment of bonds pursuant to this  
45 act and for any loan forgiveness pursuant to this section. When moneys  
46 become available the state sales tax account shall be repaid when the  
47 authority deems it prudent.

1       SECTION 2. That Section 63-3638, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3       63-3638. SALES TAX -- DISTRIBUTION. All moneys collected under this  
4 chapter, except as may otherwise be required in sections 63-3203 and  
5 63-3709, Idaho Code, shall be distributed by the tax commission as follows:

6       (1) An amount of money shall be distributed to the state refund account  
7 sufficient to pay current refund claims. All refunds authorized under this  
8 chapter by the commission shall be paid through the state refund account, and  
9 those moneys are continuously appropriated.

10       (2) Five million dollars (\$5,000,000) per year is continuously  
11 appropriated and shall be distributed to the permanent building fund,  
12 provided by section 57-1108, Idaho Code.

13       (3) Four million eight hundred thousand dollars (\$4,800,000) per year  
14 is continuously appropriated and shall be distributed to the water pollution  
15 control account established by section 39-3628, Idaho Code.

16       (4) An amount equal to the sum required to be certified by the chairman  
17 of the Idaho housing and finance association to the state tax commission  
18 pursuant to section 67-6211, Idaho Code, in each year is continuously  
19 appropriated and shall be paid to any capital reserve fund, established  
20 by the Idaho housing and finance association pursuant to section 67-6211,  
21 Idaho Code. Such amounts, if any, as may be appropriated hereunder to the  
22 capital reserve fund of the Idaho housing and finance association shall  
23 be repaid for distribution under the provisions of this section, subject  
24 to the provisions of section 67-6215, Idaho Code, by the Idaho housing and  
25 finance association, as soon as possible, from any moneys available therefor  
26 and in excess of the amounts which the authority determines will keep it  
27 self-supporting.

28       (5) An amount equal to the sum required by the provisions of sections  
29 63-709 and 63-717, Idaho Code, after allowance for the amount appropriated  
30 by section 63-718(3), Idaho Code, is continuously appropriated and shall be  
31 paid as provided by sections 63-709 and 63-717, Idaho Code.

32       (6) An amount required by the provisions of chapter 53, title 33, Idaho  
33 Code.

34       (7) An amount required by the provisions of chapter 87, title 67, Idaho  
35 Code.

36       (8) For fiscal year 2011, and each fiscal year thereafter, four  
37 million one hundred thousand dollars (\$4,100,000), of which two million  
38 two hundred thousand dollars (\$2,200,000) shall be distributed to each  
39 of the forty-four (44) counties in equal amounts, and one million nine  
40 hundred thousand dollars (\$1,900,000) of which shall be distributed to the  
41 forty-four (44) counties in the proportion that the population of the county  
42 bears to the population of the state. For fiscal year 2012, and for each  
43 fiscal year thereafter, the amount distributed pursuant to this subsection  
44 (8), shall be adjusted annually by the tax commission in accordance with the  
45 consumer price index for all urban consumers (CPI-U) as published by the  
46 U.S. department of labor, bureau of labor statistics, but in no fiscal year  
47 shall the total amount allocated for counties under this subsection (8),  
48 be less than four million one hundred thousand dollars (\$4,100,000). Each  
49 county shall establish a special election fund to which shall be deposited

1 all revenues received from the distribution pursuant to this subsection (8).  
 2 All such revenues shall be used exclusively to defray the costs associated  
 3 with conducting elections as required of county clerks by the provisions of  
 4 section 34-1401, Idaho Code.

5 (9) One dollar (\$1.00) on each application for certificate of title  
 6 or initial application for registration of a motor vehicle, snowmobile,  
 7 all-terrain vehicle or other vehicle processed by the county assessor or  
 8 the Idaho transportation department excepting those applications in which  
 9 any sales or use taxes due have been previously collected by a retailer,  
 10 shall be a fee for the services of the assessor of the county or the Idaho  
 11 transportation department in collecting such taxes, and shall be paid into  
 12 the current expense fund of the county or state highway account established  
 13 in section 40-702, Idaho Code.

14 (10) Eleven and five-tenths percent (11.5%) is continuously  
 15 appropriated and shall be distributed to the revenue sharing account which  
 16 is created in the state treasury, and the moneys in the revenue sharing  
 17 account will be paid in installments each calendar quarter by the tax  
 18 commission as follows:

19 (a) Twenty-eight and two-tenths percent (28.2%) shall be paid to the  
 20 various cities as follows:

21 (i) Fifty percent (50%) of such amount shall be paid to the  
 22 various cities, and each city shall be entitled to an amount  
 23 in the proportion that the population of that city bears to the  
 24 population of all cities within the state; and

25 (ii) Fifty percent (50%) of such amount shall be paid to the  
 26 various cities, and each city shall be entitled to an amount in the  
 27 proportion that the preceding year's market value for assessment  
 28 purposes for that city bears to the preceding year's market value  
 29 for assessment purposes for all cities within the state.

30 (b) Twenty-eight and two-tenths percent (28.2%) shall be paid to the  
 31 various counties as follows:

32 (i) One million three hundred twenty thousand dollars  
 33 (\$1,320,000) annually shall be distributed one forty-fourth  
 34 (1/44) to each of the various counties; and

35 (ii) The balance of such amount shall be paid to the various  
 36 counties, and each county shall be entitled to an amount in  
 37 the proportion that the population of that county bears to the  
 38 population of the state;

39 (c) Thirty-five and nine-tenths percent (35.9%) of the amount  
 40 appropriated in this subsection (10) shall be paid to the several  
 41 counties for distribution to the cities and counties as follows:

42 (i) Each city and county which received a payment under the  
 43 provisions of section 63-3638(e), Idaho Code, during the fourth  
 44 quarter of calendar year 1999, shall be entitled to a like amount  
 45 during succeeding calendar quarters.

46 (ii) If the dollar amount of money available under this subsection  
 47 (10) (c) in any quarter does not equal the amount paid in the fourth  
 48 quarter of calendar year 1999, each city's and county's payment  
 49 shall be reduced proportionately.

1 (iii) If the dollar amount of money available under this  
2 subsection (10)(c) in any quarter exceeds the amount paid in  
3 the fourth quarter of calendar year 1999, each city and county  
4 shall be entitled to a proportionately increased payment, but such  
5 increase shall not exceed one hundred five percent (105%) of the  
6 total payment made in the fourth quarter of calendar year 1999.

7 (iv) If the dollar amount of money available under this subsection  
8 (10)(c) in any quarter exceeds one hundred five percent (105%) of  
9 the total payment made in the fourth quarter of calendar year 1999,  
10 any amount over and above such one hundred five percent (105%)  
11 shall be paid fifty percent (50%) to the various cities in the  
12 proportion that the population of the city bears to the population  
13 of all cities within the state, and fifty percent (50%) to the  
14 various counties in the proportion that the population of a county  
15 bears to the population of the state; and

16 (d) Seven and seven-tenths percent (7.7%) of the amount appropriated  
17 in this subsection (10) shall be paid to the several counties for  
18 distribution to special purpose taxing districts as follows:

19 (i) Each such district which received a payment under the  
20 provisions of section 63-3638(e), Idaho Code, during the fourth  
21 quarter of calendar year 1999, shall be entitled to a like amount  
22 during succeeding calendar quarters.

23 (ii) If the dollar amount of money available under this subsection  
24 (10)(d) in any quarter does not equal the amount paid in the  
25 fourth quarter of calendar year 1999, each special purpose taxing  
26 district's payment shall be reduced proportionately.

27 (iii) If the dollar amount of money available under this  
28 subsection (10)(d) in any quarter exceeds the amount distributed  
29 under paragraph (i) of this subsection (10)(d), each special  
30 purpose taxing district shall be entitled to a share of the excess  
31 based on the proportion each such district's current property  
32 tax budget bears to the sum of the current property tax budgets  
33 of all such districts in the state. The state tax commission  
34 shall calculate district current property tax budgets to include  
35 any unrecovered foregone amounts as determined under section  
36 63-802(1)(e), Idaho Code. When a special purpose taxing district  
37 is situated in more than one (1) county, the tax commission shall  
38 determine the portion attributable to the special purpose taxing  
39 district from each county in which it is situated.

40 (iv) If special purpose taxing districts are consolidated, the  
41 resulting district is entitled to a base amount equal to the sum of  
42 the base amounts which were received in the last calendar quarter  
43 by each district prior to the consolidation.

44 (v) If a special purpose taxing district is dissolved or  
45 disincorporated, the state tax commission shall continuously  
46 distribute to the board of county commissioners an amount equal  
47 to the last quarter's distribution prior to dissolution or  
48 disincorporation. The board of county commissioners shall  
49 determine any redistribution of moneys so received.

1 (vi) Taxing districts formed after January 1, 2001, are not  
2 entitled to a payment under the provisions of this subsection  
3 (10) (d).

4 (vii) For purposes of this subsection (10) (d), a special purpose  
5 taxing district is any taxing district which is not a city, a  
6 county or a school district.

7 (11) Amounts calculated in accordance with section 2, chapter 356, laws  
8 of 2001, for annual distribution to counties and other taxing districts  
9 beginning in October 2001 for replacement of property tax on farm machinery  
10 and equipment exempted pursuant to section 63-602EE, Idaho Code. For  
11 nonschool districts, the state tax commission shall distribute one-fourth  
12 (1/4) of this amount certified quarterly to each county. For school  
13 districts, the state tax commission shall distribute one-fourth (1/4) of  
14 the amount certified quarterly to each school district. For nonschool  
15 districts, the county auditor shall distribute to each district within  
16 thirty (30) calendar days from receipt of moneys from the tax commission.  
17 Moneys received by each taxing district for replacement shall be utilized  
18 in the same manner and in the same proportions as revenues from property  
19 taxation. The moneys remitted to the county treasurer for replacement of  
20 property exempt from taxation pursuant to section 63-602EE, Idaho Code, may  
21 be considered by the counties and other taxing districts and budgeted at the  
22 same time, in the same manner and in the same year as revenues from taxation  
23 on personal property which these moneys replace. If taxing districts are  
24 consolidated, the resulting district is entitled to an amount equal to  
25 the sum of the amounts which were received in the last calendar quarter by  
26 each district pursuant to this subsection prior to the consolidation. If a  
27 taxing district is dissolved or disincorporated, the state tax commission  
28 shall continuously distribute to the board of county commissioners an  
29 amount equal to the last quarter's distribution prior to dissolution or  
30 disincorporation. The board of county commissioners shall determine  
31 any redistribution of moneys so received. If a taxing district annexes  
32 territory, the distribution of moneys received pursuant to this subsection  
33 shall be unaffected. Taxing districts formed after January 1, 2001, are  
34 not entitled to a payment under the provisions of this subsection. School  
35 districts shall receive an amount determined by multiplying the sum of  
36 the year 2000 school district levy minus .004 times the market value on  
37 December 31, 2000, in the district of the property exempt from taxation  
38 pursuant to section 63-602EE, Idaho Code, provided that the result of these  
39 calculations shall not be less than zero (0). The result of these school  
40 district calculations shall be further increased by six percent (6%). For  
41 purposes of the limitation provided by section 63-802, Idaho Code, moneys  
42 received pursuant to this section as property tax replacement for property  
43 exempt from taxation pursuant to section 63-602EE, Idaho Code, shall be  
44 treated as property tax revenues.

45 (12) Amounts necessary to pay refunds as provided in section 63-3641,  
46 Idaho Code, to a developer of a retail complex shall be remitted to the  
47 demonstration pilot project fund created in section 63-3641, Idaho Code.

48 (13) Amounts calculated in accordance with subsection (4) of section  
49 63-602KK, Idaho Code, for annual distribution to counties and other  
50 taxing districts for replacement of property tax on personal property tax

1 exemptions pursuant to subsection (1) of section 63-602KK, Idaho Code,  
2 which amounts are continuously appropriated unless the legislature enacts a  
3 different appropriation for a particular fiscal year.

4 (14) An amount equal to the sum required to be certified by the  
5 chairperson of the Idaho micro enterprise development authority to the state  
6 tax commission pursuant to section 67-6125, Idaho Code, that is necessary  
7 to be paid to any capital reserve fund established by the authority for the  
8 retirement or repayment of bonds pursuant to this chapter and for any loan  
9 forgiveness pursuant to this section 67-6125, Idaho Code, is continuously  
10 appropriated and shall be paid to any capital reserve fund established by  
11 the micro enterprise development authority pursuant to chapter 61, title 67,  
12 Idaho Code. Such amounts, if any, as may be appropriated hereunder to the  
13 micro enterprise development authority, shall be repaid as soon as possible,  
14 from any moneys available therefor and in excess of the amounts that the  
15 authority determined will keep it self-supporting.

16 (15) Any moneys remaining over and above those necessary to meet  
17 and reserve for payments under other subsections of this section shall be  
18 distributed to the general fund.

19 SECTION 3. SEVERABILITY. The provisions of this act are hereby declared  
20 to be severable and if any provision of this act or the application of such  
21 provision to any person or circumstance is declared invalid for any reason,  
22 such declaration shall not affect the validity of the remaining portions of  
23 this act.